(b) (6), (b) (7)(C)

PAGE 04/05 FORM EXEMPT UNDER 44 IJ.S.C 3512

FORM NLRB-508 (3-21)

### UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST LABOR ORGANIZATION OR IT'S AGENTS

DO NOT WRITE IN THIS	SPACE
Case	Date Filed
29-CB-293554	4/5/2022

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1, LABOR ORGANIZATION OR IT	TO ACENTO	ACAINST WHICH CHAR	CE IS BROLL	GHT		
a. Name	19 MGEN 19	AGAINGT WHICH CHAR			to contact	
1199SEIU			b. Union Representative to contact George Gersham			
11993E10			George G	ersnam		
c. Address (Street, city, state, and ZIP code)			d. Tel. No.		e. Cell No.	
498 Seventh Ave. New York, NY 10018			646-473-9	200		
			f, Fax. No.			
			g. e-mail			
h. The above-named labor organization has engaged in and is enga	aging in unfai	r labor practices within the	meaning of	section 8(b)	and (list subsections)	
	5				and these unfair labor	
practices are practices affecting commerce within the meaning of	f the Act, or th	hese unfair labor practices	are practice	s affecting co	ommerce within the	
meaning of the Act and the Postal Reorganization Act.						
<ol><li>Basis of the Charge (set forth a clear and concise statement of the</li></ol>	ne facts consi	tituting the alleged unfair i	abor practice	5)		
0 - 4 1 1 1 1						
See attached sheet.						
3. Name of Employer		4a. Tel. No.	b. Cell No.		c. Fax No.	
• •		212-219-8100	b. Cell No.		C. Fax No.	
Chinese-American Planning Council		d. e-mail				
5. Location of plant involved (street, city, state and ZIP code)			6. Employer	representati	ve to contact	
1 York Street			(b) (6), (b) (7)(C)			
New York, NY 10013						
7. Type of establishment <i>(factory, mine, wholesaler, etc.)</i> home care agency	7. Type of establishment (factory, mine, wholesaler, etc.)  8. Identify principal product or service home care agency  8. Identify principal product or services		e 9. Number of workers employed 1000+			
10. Full name of party filing charge	inchie Care	30111003	<u>.</u>	1000		
(b) (6), (b) (7)(C)						
11. Address of party filing charge (street, city, state and ZIP code)		11a, Tel. No.	b. Cell No.	-	c. Fax No.	
,			(b) (6), (b) (7	(C)		
(b) (6), (b) (7)(C)		d. e-mail				
12. DECLARATION	ī		Т	ei. No.		
(b) (6), (b) (7)(C) to the best of my knowled	and that the de and belie	statements f.				
	(b	o) (6), (b) (7)(C)	1 -	ell No. ) (6), (b) (7)(0	<b>21</b>	
(signature of representative or person making charge) (Print/type name and title or office, if any		ama and little or office if earl			<u> </u>	
1	n maybe na	ano one me or ombe, a any)	-	ax No.		
(b) (6), (b) (7)(C)		2/22/22		mail		
Address (D) (D), (D) (T)(C)		Date 3/27/22		-mail		

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

### 2. Basis of the Charge

(b) (6), (b) (7)(C

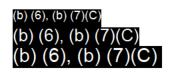
- (1) failing to challenge the arbitrator's award issued on or about February 25, 2022, that did not provide any relief, financially or in preventing future violation of thier rights, when the Union had forced them into mandatory class arbitration that effectively took away their right to assert claims under New York State labor laws that provided fair monetary compensation and deterrence through criminal liability, for arbitrary, discriminatory and incidious reasons, in violation of Section 8(b)(1)(A); and
- (2) by engaging in conduct amounting to or had the effect of colluding with 42 homecare agencies/employers in the State of New York to evade monetary and criminal liabilities by these employers' unlawful conduct that violates New York State labor laws and other labor statutes for arbitrary, discriminatory and incidious reasons, in violation of Section 8(b)(1)(A).



## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

Agency Website: www.nlrb.gov Telephone: (718)330-7713 Fax: (718)330-7579





REGION 29

Suite 5100

Two Metro Tech Center

Brooklyn, NY 11201-3838

April 6, 2022

Re: 1199 SEIU (Chinese American Planning

Council)

Case 29-CB-293554

### Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on April 05, 2022 has been docketed as case number 29-CB-293554. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Attorney BRENT E. CHILDERHOSE whose telephone number is (718)765-6187. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

<u>Right to Representation</u>: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701*, *Notice of Appearance*. This form is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a>, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

<u>Preservation of all Potential Evidence:</u> Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

<u>Prohibition on Recording Affidavit Interviews:</u> It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

<u>Correspondence</u>: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, <u>www.nlrb.gov</u>. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a> or from an NLRB office upon your request. NLRB Form 4541, Investigative Procedures offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

KATHY DREW-KING

Regional Director



### UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

Download

Two Metro Tech Center Agency Website: www.nlrb.gov Telephone: (718)330-7713 Brooklyn, NY 11201-3838 Fax: (718)330-7579

**NLRB** Mobile App

(b) (6), (b) (7)(C) Chinese-American Planning Council 1 York Street

New York, NY 10013

REGION 29

Suite 5100

April 6, 2022

Re: 1199 SEIU (Chinese American Planning

Council)

Case 29-CB-293554



Enclosed is a copy of a charge that has been filed in this case. Although this charge is not filed against you, it is necessary for us to obtain information from you to determine whether we have jurisdiction over this case. In the future we may also need to obtain evidence from you concerning the merits of the charge. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

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**Presentation of Your Evidence:** We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

If, during the investigation of this matter, the Board agent asks for evidence, I strongly urge you or your representative to promptly present all evidence relevant to the investigation. In this way, the case may be fully investigated more quickly.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

<u>Preservation of all Potential Evidence:</u> Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

KATHY DREW-KING Regional Director

### Enclosures

- 1. Copy of Charge
- 2. Commerce Questionnaire

FORM NLRB-5081 NATIONAL LABOR RELATIONS BOARD (3-11)				
QUESTIONNAIRE ON COMMERCE INFORMATION				
Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.				
CASE NAME			ASE NUMBER	
		29	-CB-293554	
1. EXACT LEGAL TITLE OF ENTITY (As filed w	ith State and/or stated in legal	documents forming entity)		
2. TYPE OF ENTITY				
[] CORPORATION [] LLC [] LLP []	PARTNERSHIP [ ] SOLE	PROPRIETORSHIP [ ] OTHER	(Specify)	
3. IF A CORPORATION or LLC				
A. STATE OF INCORPORATION	B. NAME, ADDRESS, AND	RELATIONSHIP (e.g. parent, subsidia	ry) OF ALL RELATED ENTI	TIES
OR FORMATION				
4. IF AN LLC OR ANY TYPE OF PARTNERSHIP	P, FULL NAME AND ADDRE	SS OF ALL MEMBERS OR PARTN	ERS	
5. IF A SOLE PROPRIETORSHIP, FULL NAME	AND ADDRESS OF PROPRI	ETOR		
6. BRIEFLY DESCRIBE THE NATURE OF YOU	R OPERATIONS (Products ha	ndled or manufactured, or nature of ser	vices performed).	
7A. PRINCIPAL LOCATION:	7B. BRANCE	H LOCATIONS:		
8. NUMBER OF PEOPLE PRESENTLY EMPLOY	YED			
A. TOTAL:	B. AT THE ADDRESS INVO	DLVED IN THIS MATTER:		
9. DURING THE MOST RECENT (Check the appropriate box): [ ] CALENDAR [ ] 12 MONTHS or [ ] FISCAL YEAR (FY DATES)				
9. DURING THE MOST RECENT (Check the appr	ropriate box): [ ] CALENDAR	[ ] 12 MONTHS or [ ] FISCAL	YEAR (FY DATES	)
			YES N	) (O
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A. Did you provide services valued in excess of \$50,0  \$  B. If you answered no to 9A, did you provide services	00 directly to customers outside	your State? If no, indicate actual value	YES N	(O
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SIGNATURE

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

PRIVACY ACT STATEMENT

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the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

E-MAIL ADDRESS

DATE



## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

REGION 29 Two Metro Tech Center Suite 5100 Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov Telephone: (718)330-7713 Fax: (718)330-7579 Download NLRB Mobile App

George Gersham 1199 SEIU 498 Seventh Avenue New York, NY 10018

April 6, 2022

Re: 1199 SEIU (Chinese American Planning

Council)

Case 29-CB-293554

Dear Mr. Gersham:

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<u>Presentation of Your Evidence</u>: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

<u>Preservation of all Potential Evidence:</u> Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

<u>Prohibition on Recording Affidavit Interviews:</u> It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

<u>Correspondence</u>: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, <u>www.nlrb.gov</u>. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive

correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a> or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

KATHY DREW-KING Regional Director

Enclosure: Copy of Charge

# UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

1199 SEIU (CHINESE AMERICAN PLANNING COUNCIL)	
Charged Party	
and	Case 29-CB-293554
(b) (6), (b) (7)(C)	
Charging Party	
AFFIDAVIT OF SERVICE OF CHARGE AGAIN	NST LABOR ORGANIZATION
I, the undersigned employee of the National Labor Re April 6, 2022, I served the above-entitled document(s following persons, addressed to them at the following	) by post-paid regular mail upon the
George Gersham 1199 SEIU 498 Seventh Avenue New York, NY 10018	
April 6, 2022	FREDA DEVONSHIRE, Designated Agent of NLRB
Date	Name
	/S/ FREDA DEVONSHIRE
<del>-</del>	Signature

From: Kirschner, Kenneth Childerhose, Brent E. To:

Subject: 1199SEIU (Chinese-American Planning Council Home Attendant Program, Inc.) - Case Nos. 29-CB-293554 and

29-CB-293575

Tuesday, April 12, 2022 2:24:31 PM Date: NLRB Letter Re(b) (6), (b) (7)(C) .pdf NOA(b) (6), (b) (7)(C)pdf Attachments:

NOA((b) (6), (b) (7)(C) pdf

Dear Mr. Childerhose,

It was a pleasure speaking with you this morning.

As promised, attached is our Notices of Appearance in the above-captioned charges.

As discussed, I will send you some further information as to why these unfair labor practice charges against 1199 should be dismissed forthwith.

Best regards,

Ken

#### Kenneth Kirschner

Partner

Hogan Lovells US LLP 390 Madison Avenue New York, NY 10017 +1 212 918 3000 Direct: +1 212 918 3260 Fax: +1 212 918 3100

Email: kenneth.kirschner@hoganlovells.com

www.hoganlovells.com

If you would like to know more about how we are managing the impact of the COVID-19 pandemic on our firm then take a look at our brief Q&A. If you would like to know more about how to handle the COVID-19 issues facing your business then take a look at our information hub.

#### **About Hogan Lovells**

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email and delete this email (and any attachments) from your system.



Hogan Lovells US LLP 390 Madison Avenue New York, NY 10017 T +1 212 918 3000 F +1 212 918 3100 www.hoganlovells.com

April 12, 2022

### VIA E-MAIL

Brent E. Childerhose, Esq. Field Attorney National Labor Relations Board Region 29 Two Metro Tech Center Suite 5100 Brooklyn, New York 11201

Re: 1199SEIU (Chinese-American Planning Council Home Attendant Program, Inc.

Case Nos. 29-CB-293554 29-CB-293575

Dear Mr. Childerhose:

We represent the Chinese-American Planning Council Home Attendant Program, Inc. ("CPC") in the above-captioned matters. As discussed, we will forward to you the relevant decisions and awards in prior pertinent cases which will show that these unfair labor practice charges are untimely.

Please direct any future correspondence to the undersigned.

Very truly yours,

Kenneth Kirschner

Partner kenneth.kirschner@hoganlovells.com D 212.918.3260

**Enclosures** 

Hogan Lovells US LLP is a limited liability partnership registered in the District of Columbia. "Hogan Lovells" is an international legal practice that includes Hogan Lovells US LLP and Hogan Lovells International LLP, with offices in: Alicante Amsterdam Baltimore Beijing Birmingham Boston Brussels Colorado Springs Denver Dubai Dusseldorf Frankfurt Hamburg Hanol Ho Chi Minh City Hong Kong Houston Johannesburg London Los Angeles Luxembourg Madrid Mexico City Miami Milan Minneapolis Monterrey Moscow Munich New York Northern Virginia Paris Perth Philadelphia Rome San Francisco São Paulo Shanghai Silicon Valley Singapore Sydney Tokyo Warsaw Washington, D.C. Associated Offices: Budapest Jakarta Riyadh Shanghai FTZ Ulaanbaatar. Business Service Centers: Johannesburg Louisville. Legal Services Centers Berlin. For more information see www.hoganlovells.com

### NATIONAL LABOR RELATIONS BOARD

### NOTICE OF APPEARANCE

WATER SECTION TO	
(b) (6), (b) (7)(C)  Charging Party,	
and	CASE 29-CB-293554
1199SEIU,	
Charged Party.	
REGIONAL DIRECTOR  EXECUTIVE SECRETARY NATIONAL LABOR RELATIONS BOARD Washington, DC 20570	GENERAL COUNSEL  NATIONAL LABOR RELATIONS BOARD  Washington, DC 20570
THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTAT Chinese-American Planning Council Home Attendant Program,	
IN THE ABOVE-CAPTIONED MATTER.	
CHECK THE APPROPRIATE BOX(ES) BELOW:  REPRESENTATIVE IS AN ATTORNEY.  IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE TO CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY TO DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMEN CASEHANDLING MANUAL.	ADDITION TO THOSE DESCRIBED BELOW, THIS WILL RECEIVE ONLY COPIES OF CERTAIN
(REPRESENTATIVE INFOR	MATION)
Kenneth Kirschner	
MAILING ADDRESS: 390 Madison Avenue, New York, New York	10022
E-MAIL ADDRESS: kenneth.kirschner@hoganlovells.com	
OFFICE TELEPHONE NUMBER: (212) 918-3260	
SIGNATURE: (917) 386-7414  SIGNATURE: Account from the (Please sign in poly)	<sub>FAX:</sub> (212) 918-3100
DATE: V CEME /2, 2022	

<sup>&</sup>lt;sup>1</sup> IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

### NATIONAL LABOR RELATIONS BOARD

### NOTICE OF APPEARANCE

Charging Party,  and  CASE 29-CB-293575  CASE 29-CB-29357  CASE 29-CB-29357  CASE 29-CB-29357  CASE 29-CB-29357  CASE 29-CB-29357  CASE 29-CB-29357  CASE 29-CB-29357			
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Charged Party.    REGIONAL DIRECTOR	440005		CASE
REGIONAL DIRECTOR  REGIONAL DIRECTOR  RESCRITARY NATIONAL LABOR RELATIONS BOARD Washington, DC 28579  THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF Chinese-American Planning Council Home Attendant Program, Inc.  IN THE ABOVE-CAPTIONED MATTER.  CHECK THE APPROPRIATE BOX(ES) BELOW: REPRESENTATIVE IS AN ATTORNEY  IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE ACENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED BIN SEC. 11842.3 OF THE CASEMANDLING MANUAL.  (REPRESENTATIVE INFORMATION)  Kenneth Kirschner  MAILING ADDRESS: 1990 Madison Avenue, New York, New York 10822  E-MAIL ADDRESS: 4900 Madison Avenue, New York, New York 10822  E-MAIL ADDRESS: 4900 Madison Avenue, New York, New York 10822  E-MAIL ADDRESS: 4900 Madison Avenue, New York, New York 10822  E-MAIL ADDRESS: 4900 Madison Avenue, New York, New York 10822  E-MAIL ADDRESS: 4900 Madison Avenue, New York, New York 10822  E-MAIL ADDRESS: 4900 Madison Avenue, New York, New York 10822  E-MAIL ADDRESS: 4900 Madison Avenue, New York, New York 10822  E-MAIL ADDRESS: 4900 Madison Avenue, New York, New York 10822  E-MAIL ADDRESS: 4900 Madison Avenue, New York 10822	1199SEIU,		
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Kenneth Kirschner  NAME:  Hogan Lovells US LLP  MAILING ADDRESS: Hogan Lovells US LLP  E-MAIL ADDRESS: kenneth.kirschner@hoganlovells.com  OFFICE TELEPHONE NUMBER: (212) 918-3260  CELL PHONE NUMBER: (917) 386-7414  FAX: (212) 918-3100	CERTAIN DOCUMENTS OR CO BOX MUST BE CHECKED. IF T DOCUMENTS SUCH AS CHARC	PRRESPONDENCE FROM THE AGENCY IN THIS BOX IS NOT CHECKED, THE PARTY V	ADDITION TO THOSE DESCRIBED BELOW, THIS VILL RECEIVE ONLY COPIES OF CERTAIN
Hogan Lovells US LLP  MAILING ADDRESS: Hogan Lovells US LLP  E-MAIL ADDRESS: kenneth.kirschner@hoganlovells.com  OFFICE TELEPHONE NUMBER: (212) 918-3260  CELL PHONE NUMBER: (917) 386-7414  FAX: (212) 918-3100  SIGNATURE: (Please sign jn ink)		(REPRESENTATIVE INFOR	MATION)
Hogan Lovells US LLP  390 Madison Avenue, New York, New York 10022  E-MAIL ADDRESS: kenneth.kirschner@hoganlovells.com  OFFICE TELEPHONE NUMBER: (212) 918-3260  CELL PHONE NUMBER: (917) 386-7414  FAX: (212) 918-3100  SIGNATURE: (Please sign jn ink)			
OFFICE TELEPHONE NUMBER: (212) 918-3260  CELL PHONE NUMBER: (917) 386-7414  FAX: (212) 918-3100  SIGNATURE: (Please sign jn ink).	Hogan	Lovells US LLP Idison Avenue, New York, New York	10022
OFFICE TELEPHONE NUMBER: (212) 918-3260  CELL PHONE NUMBER: (917) 386-7414  FAX: (212) 918-3100  SIGNATURE: (Please sign jn ink).	E-MAIL ADDRESS: kenneth.	kirschner@hoganlovells.com	
SIGNATURE: (917) 386-7414  FAX: (212) 918-3100  FOR CONTROL OF THE STATE OF THE STA	OFFICE TELEPHONE NUMBE	:R: (212) 918-3260	
(Please sign in ink.)	(04)	1) 386-7414	<sub>FAX:</sub> (212) 918-3100
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	(Please sign in ink.	il 12, 2022	

<sup>&</sup>lt;sup>1</sup> IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

### NATIONAL LABOR RELATIONS BOARD NOTICE OF APPEARANCE

1199SEIU UNITED HEALTHCARE WORKERS EAST,				
Union,				
and	CASE 29-CB-293554			
CHINESE-AMERICAN PLANNING COUNCIL HOME ATTENDANT,				
Employer.				
REGIONAL DIRECTOR  EXECUTIVE SECRETARY NATIONAL LABOR RELATIONS BOARD Washington, DC 20570	GENERAL COUNSEL NATIONAL LABOR RELATIONS BOARD Washington, DC 20570			
THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTAT	IVE OF			
1199SEIU United Healthcare Workers East IN THE ABOVE-CAPTIONED MATTER.				
CHECK THE APPROPRIATE BOX(ES) BELOW:  ☑ REPRESENTATIVE IS AN ATTORNEY				
☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE TO CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WE DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENT CASEHANDLING MANUAL.	ADDITION TO THOSE DESCRIBED BELOW, THIS VILL RECEIVE ONLY COPIES OF CERTAIN			
(REPRESENTATIVE INFORMA	TION)			
NAME: Laureve Blackstone				
MAILING ADDRESS: Levy Ratner, P.C., 80 Eighth Avenue, 8th Floor, New York, NY 10011-7175				
E-MAIL ADDRESS:   Iblackstone@levyratner.com				
OFFICE TELEPHONE NUMBER:(212) 627-8100				
CELL PHONE NUMBER:FAX:	: (212) 627-8182			
SIGNATURE: James D. Bachstone (Please sign in ink.)				
DATE: April 20, 2022				

 $<sup>^{\</sup>rm 1}$  IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABO
REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov Telephone: (718)330-7713 Fax: (718)330-7579

June 9, 2022



Re: 1199 SEIU (Chinese American Planning

Council)

Case 29-CB-293554

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that 1199SEIU United Healthcare Workers East (Union) has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Union has failed and refused to represent you and other union members by not challenging the February 25, 2022 arbitrator's award for the Union's class-action grievance. Further, you allege the Union's handling of the class action grievance "had the effect of colluding with 42 homecare agencies/employers in the State of New York to evade monetary and criminal liabilities by these employers..." Contrary to what is alleged in your charge, there is insufficient evidence to establish that the Union has failed in its duty to represent you or other employees named in the charge.

Is well established that a Union, as the exclusive representative of bargaining unit employees, has the statutory duty to fairly represent their interests in the processing of grievances. See *Vaca v. Sipes*, 386 U.S. 171 (1967). A breach of this duty occurs when the Union's conduct is based upon arbitrary, invidious, or discriminatory considerations. At the same time, however, unions have broad discretionary power to settle or drop grievances for a multitude of reasons and the duty of fair representation "does not require that every possible option be exercised or that a grievant's case be advocated in a perfect manner." *Truck Drivers, Local Union No. 355*, 229 NLRB 1319, 1321(1977).

Here, the evidence shows that the Union processed a class-action grievance on behalf of approximately 120,000 home healthcare workers which resulted in an arbitrator issuing a decision on February 25, 2022. The arbitrator's decision establishes a fund of approximately \$32 million to pay the wage claims of the employees represented by the Union. Further, the arbitrator's decision establishes a formula to distribute the funds to employees who submit claims. While you have objected to the arbitrator's decision, claiming that it is arbitrary and discriminatory, the Union's assessment is that the decision is fair and reasonable and balances the various factors related to such a large class action. Contrary to what you have claimed, the

arbitrator's award does not arbitrarily distribute funds equally to all employees in the class, but rather compensates employees consistent with a formula that accounts for which employees had worked 24-hour shifts. While you disagree with the Union's assessment that the arbitrator's award is appropriate, there is insufficient evidence that the Union's actions are based on any unlawful considerations. Your disagreement with how the Union has chosen to represent the class of employees does not equate to the Union violating its statutory obligation to provide fair representation to the employees it represents. Accordingly, since there is insufficient evidence to establish that the Union violated the Act as alleged or in any other manner encompassed by your charge, I am dismissing this charge.

**Charging Party's Right to Appeal:** The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible. Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at <a href="www.nlrb.gov">www.nlrb.gov</a>. See <a href="www.nlrb.gov">User Guide</a>. A video demonstration which provides <a href="step-by-step instructions">step-by-step instructions</a> and frequently asked questions are also available at <a href="www.nlrb.gov">www.nlrb.gov</a>. If you require additional assistance with E-Filing, please contact <a href="mailto:e-Filing@nlrb.gov">e-Filing@nlrb.gov</a>.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on June 23, 2022. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than June 22, 2022. If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely. If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before June 23, 2022.** The request may be filed electronically through the *E-File Documents* link on our website <a href="www.nlrb.gov">www.nlrb.gov</a>, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after June 23, 2022, **even if it is** 

**postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,

Karry Den Rig

Kathy Drew King Regional Director

### Enclosure

cc: (b) (6), (b) (7)(C)

Flushing Workers Center PO Box 528119 Flushing, NY 11355

George Gresham 1199SEIU United Healthcare Workers East 498 Seventh Avenue New York, NY 10018

Laureve Blackstone, Esq. Levy Ratner, P.C. 80 Eighth Avenue 8th Floor New York, NY 10011-7175

Kenneth Kirschner, Esq. Hogan Lovells LLP 390 Madison Avenue New York, NY 10017 (b) (6), (b) (7)(C)

Chinese-American Planning Council 1 York Street New York, NY 10013

## UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD

### APPEAL FORM

Date:

To: General Counsel

Attn: Office of Appeals National Labor Relations Board 1015 Half Street SE Washington, DC 20570-0001	
Please be advised that an appeal is here National Labor Relations Board from the action issue a complaint on the charge in	
Case Name(s).	
Case No(s). (If more than one case number, inclutaken.)	ude all case numbers in which appeal is
	(Signature)

### **E-FILING TO APPEALS**

- 1. **Extension of Time**: This document is used when the Charging Party is asking for more time to efile an Appeal.
  - If an Extension of Time is e-filed, and there are additional documents to be e-filed simultaneously with it, please e-file those documents under the selection **Correspondence**.
  - After an Extension of Time has already been e-filed, any **additional** materials to add to the Extension of Time should be e-filed under **Correspondence**.
- 2. **File an Appeal**: If the Charging Party does not agree with the Region's decision on the case, an Appeal can be e-filed.
  - Only one (1) Appeal can be e-filed to each determination in the Region's decision letter that is received.
  - After an Appeal has been e-filed, any additional materials to add to the Appeal should be e-filed under Correspondence.
- 3. **Notice of Appearance**: Either party can e-file a Notice of Appearance if there is a new counsel representing one side or a different counsel.
  - This document is only e-filed with the Office of Appeals after a decision has been made by the Region.
  - This document can be e-filed **before** an Appeal is e-filed.
- 4. **Correspondence**: Parties will **select** Correspondence when adding documents or supplementing the Appeal or Extension of Time.
  - Correspondence is used to e-file documents after an Extension of Time, Appeal or Notice of Appearance has been e-filed.
- 5. **Position Statement**: The Charging Party or Charged Party may e-file a Position Statement.
  - The Charging Party will e-file this document as a supplement of the Appeal.
  - The Charged Party will specifically file one to support the Region's decision.
  - This document should be e-filed after an Extension of Time, Appeal or Notice of Appearance has been e-filed.
- 6. **Withdrawal Request**: If the Charging Party decides to no longer pursue their appeal, he/she can e-file a Withdrawal Request to the Office of Appeals.
  - This document should be e-Filed **after** an **Extension of Time, Appeal** or **Notice of Appearance** has been e-filed.



7. The selections of **Evidence** or **Other** should no longer be used.



## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

### OFFICE OF THE GENERAL COUNSEL

Washington, DC 20570

June 24, 2022

(b) (6), (b) (7)(C)
FLUSHING WORKERS CENTER
PO BOX 528119
FLUSHING, NY 11355

Re: 1199 SEIU (Chinese American Planning

Council)

Case 29-CB-293554

Dear (b) (6), (b) (7)(C)

We have received your request for an extension of time to file an appeal. We are granting you an extension only to **July 15, 2022.** 

File your Appeal Electronically by July 15, 2022. You must file your appeal electronically via the Agency's website <a href="www.nlrb.gov">www.nlrb.gov</a> and are encouraged to submit a complete statement of the facts and reasons why you believe the Region's decision was incorrect. Remember to allow enough time to complete the electronic filing process by 11:59 pm Eastern Time on July 15, 2022. Otherwise, your appeal will be late. Instructions on how to file electronically through our e-filing system is on the website.

If Unable to File Electronically, send via Mail by July 14, 2022. If you are unable to file electronically, you must include a written explanation as to why filing electronically was not possible or feasible along with your appeal. These items must be sent through the U.S. mail or by a delivery service no later than July 14, 2022, and addressed to the General Counsel, NLRB, Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the appeal should also be sent to the Regional Director. Please note that the date to send your appeal by mail or delivery service is at least one day prior to the appeal due date. This ensures your appeal is timely no matter what date it is received in this office.

Finally, please be advised that we do not accept appeals through fax or e-mail.

Sincerely,

Jennifer A. Abruzzo General Counsel

By:

Mark E. Arbesfeld, Director Office of Appeals

cc: KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
TWO METRO TECH CENTER
STE 5100
BROOKLYN, NY 11201-3838

LAUREVE D. BLACKSTONE, ESQ. LEVY RATNER, P.C. 80 EIGHTH AVE 8<sup>TH</sup> FL NEW YORK, NY 10011-7175 KENNETH KIRSCHNER, ESQ. HOGAN LOVELLS LLP 390 MADISON AVE NEW YORK, NY 10017

Mark E. Abestell

## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

### OFFICE OF THE GENERAL COUNSEL

Washington, DC 20570

July 15, 2022

(b) (6), (b) (7)(C) FLUSHING WORKERS CENTER PO BOX 528119 FLUSHING, NY 11355

Re: 1199 SEIU (Chinese American Planning

Council)

Case 29-CB-293554

Dear (b) (6), (b) (7)(C):

We have received your request for an extension of time to file an appeal. We are granting you an extension to **August 3, 2022.** No further extensions will be granted.

File your Appeal Electronically by August 3, 2022. You must file your appeal electronically via the Agency's website <a href="www.nlrb.gov">www.nlrb.gov</a> and are encouraged to submit a complete statement of the facts and reasons why you believe the Region's decision was incorrect. Remember to allow enough time to complete the electronic filing process by 11:59 pm Eastern Time on August 3, 2022. Otherwise, your appeal will be late. Instructions on how to file electronically through our e-filing system is on the website.

If Unable to File Electronically, send via Mail by August 2, 2022. If you are unable to file electronically, you must include a written explanation as to why filing electronically was not possible or feasible along with your appeal. These items must be sent through the U.S. mail or by a delivery service no later than August 2, 2022, and addressed to the General Counsel, NLRB, Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the appeal should also be sent to the Regional Director. Please note that the date to send your appeal by mail or delivery service is at least one day prior to the appeal due date. This ensures your appeal is timely no matter what date it is received in this office.

Finally, please be advised that we do not accept appeals through fax or e-mail.

Sincerely,

Jennifer A. Abruzzo General Counsel

By:

Mark E. Arbesfeld, Director Office of Appeals

Mark E. Alberteld

cc: KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
TWO METRO TECH CENTER
STE 5100
BROOKLYN, NY 11201-3838

KENNETH KIRSCHNER, ESQ. HOGAN LOVELLS LLP 390 MADISON AVE NEW YORK, NY 10017 LAUREVE D. BLACKSTONE, ESQ. LEVY RATNER, P.C. 80 EIGHTH AVE 8<sup>TH</sup> FL NEW YORK, NY 10011-7175

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# UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, DC 20570

August 5, 2022

(b) (6), (b) (7)(C) FLUSHING WORKERS CENTER PO BOX 528119 FLUSHING, NY 11355

Re: 1199 SEIU (Chinese American Planning

Council)

Case 29-CB-293554

Dear (b) (6), (b) (7)(C)

We have received your timely appeal from the Region's decision in the above-captioned case. We will assign your appeal for processing in accordance with Agency procedures. Please be assured that our review of this matter will include a full analysis of the underlying investigatory file, your appeal, as well as current Board law and processes.

We will notify you and all involved parties of our decision by letter via email as permitted under Section 102.4(c) of the Board's *Rules and Regulations*. If an email address is not available for you, we will provide the decision by mail.

Sincerely,

Jennifer A. Abruzzo General Counsel

By:

Mark E. Arbesfeld, Director Office of Appeals

Mark E. Albertell

ce: KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
TWO METRO TECH CENTER
STE 5100
BROOKLYN, NY 11201-3838

GEORGE GERSHAM 1199SEIU UNITED HEALTHCARE WORKERS EAST 498 SEVENTH AVE NEW YORK, NY 10018

LAUREVE D. BLACKSTONE, ESQ. LEVY RATNER, P.C. 80 EIGHTH AVE 8TH FL NEW YORK, NY 10011-7175 (b) (6), (b) (7)(C)

CHINESE AMERICAN PLANNING COUNCIL 1 YORK ST NEW YORK, NY 10013

KENNETH KIRSCHNER, ESQ. HOGAN LOVELLS LLP 390 MADISON AVE NEW YORK, NY 10017



kh

(b) (6), (b) (7)(C)

PAGE 02/05 FORM EXEMPT UNDER 44 U.S.Ç 351%

FORM NLRB-508 (3-21)

### UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

DO NOT WRITE IN THIS SPACE			
Case	Date Filed		
29-CB-293575	4/5/2022		

NSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

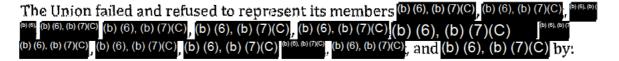
INSTRUCTIONS: File an original with NLRB Regional Director for th	ie negion in w	nich me alleged miliair iad	or practice of	occurred or is	occurring.	
1. LABOR ORGANIZATION OR IT	IS AGENTS /	AGAINST WHICH CHARC	E IS BROU	GHT		
a. Name			b. Union Representative to contact			
1199SEIU			George Gresham			
c. Address (Street, city, state, and ZIP code)			d. Tel. No. 646-473-		e. Cell No.	
498 Seventh Ave. New York, NY 10018			f, Fax, No.			
			g. e-mail			
h. The above-named labor organization has engaged in and is engaging in unfair labor practices within the meaning of section 8(b) and (list subsections)  of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.						
<ol> <li>Basis of the Charge (set forth a clear and concise statement of the See attached sheet.</li> </ol>	ne facts const	ituting the alleged untair k	abor practice	35)		
3. Name of Employer		4a, Tel. No.	b. Celi No.		c. Fax No.	
Chinese-American Planning Council  d. e-mail						
5. Location of plant involved (street, city, state and ZIP code)  1 York Street New York, NY 10013			6. Employer representative to contact			
7. Type of establishment (factory, mine, wholesaler, etc.) 8. Identify principal product or service home care agency home care services		9. Number of workers employed		f workers employed		
10. Full name of party filing charge (b) (6), (b) (7)(C)						
11. Address of party filing charge (street, city, state and ZIP code)  11a. Tel. No.		b. Cell No. (b) (6), (b) (7)(C)		c. Fax No.		
(b) (6), (b) (7)(C)						
12. DECLARATION  I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.  (b) (6), (b) (7)(C)  (b) (6), (b) (7)(C)			Tel. No.			
(signature of representativo or person making charge)	(Print/type na	me and title or office, if any)	Fax No.			
Address (b) (6), (b) (7)(C)			e-mail			

### WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this Information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

### 2. Basis of the Charge

(b) (6), (b) (7)(C



- (1) failing to challenge the arbitrator's award issued on or about February 25, 2022, that did not provide any relief, financially or in preventing future violation of thier rights, when the Union had forced them into mandatory class arbitration that effectively took away their right to assert claims under New York State labor laws that provided fair monetary compensation and deterrence through criminal liability, for arbitrary, discriminatory and incidious reasons, in violation of Section 8(b)(1)(A); and
- (2) by engaging in conduct amounting to or had the effect of colluding with 42 homecare agencies/employers in the State of New York to evade monetary and criminal liabilities by these employers' unlawful conduct that violates New York State labor laws and other labor statutes for arbitrary, discriminatory and incidious reasons, in violation of Section 8(b)(1)(A).



## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

REGION 29 Two Metro Tech Center Suite 5100 Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov Telephone: (718)330-7713 Fax: (718)330-7579 Download NLRB Mobile App

George Gresham 1199 SEIU 498 Seventh Avenue New York, NY 10018

April 6, 2022

Re: 1199 SEIU (Chinese-American Planning

Council)

Case 29-CB-293575

Dear Mr. Gresham:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Attorney BRENT E. CHILDERHOSE whose telephone number is (718)765-6187. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

<u>Right to Representation</u>: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, <u>www.nlrb.gov</u>, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

- 2 -

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

<u>Preservation of all Potential Evidence:</u> Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

<u>Prohibition on Recording Affidavit Interviews:</u> It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

<u>Correspondence</u>: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, <u>www.nlrb.gov</u>. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive

correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a> or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

KATHY DREW-KING Regional Director

Enclosure: Copy of Charge

# UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

1199 SEIU (CHINESE-AMERICAN PLANNING COUNCIL)	
Charged Party	
and	Case 29-CB-293575
(b) (6), (b) (7)(C)	
Charging Party	
AFFIDAVIT OF SERVICE OF CHARGE AGAIN	NST LABOR ORGANIZATION
I, the undersigned employee of the National Labor Re April 6, 2022, I served the above-entitled document(s following persons, addressed to them at the following	) by post-paid regular mail upon the
George Gresham 1199 SEIU 498 Seventh Avenue New York, NY 10018	
April 6, 2022	FREDA DEVONSHIRE, Designated Agent of NLRB
Date	Name
_	/S/ FREDA DEVONSHIRE Signature



Download

REGION 29 Two Metro Tech Center Suite 5100 Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov Telephone: (718)330-7713 Fax: (718)330-7579 Download NLRB Mobile App



April 6, 2022

Re: 1199 SEIU (Chinese-American Planning

Council)

Case 29-CB-293575

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on April 05, 2022 has been docketed as case number 29-CB-293575. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Attorney BRENT E. CHILDERHOSE whose telephone number is (718)765-6187. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701*, *Notice of Appearance*. This form is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a>, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

<u>Preservation of all Potential Evidence:</u> Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

<u>Prohibition on Recording Affidavit Interviews:</u> It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

<u>Correspondence</u>: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, <u>www.nlrb.gov</u>. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a> or from an NLRB office upon your request. NLRB Form 4541, Investigative Procedures offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

KATHY DREW-KING

Regional Director



Download

REGION 29 Two Metro Tech Center Suite 5100 Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov Telephone: (718)330-7713 Fax: (718)330-7579 Download NLRB Mobile App



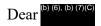
Chinese-American Planning Council 1 York Street New York, NY 10013

April 6, 2022

Re: 1199 SEIU (Chinese-American Planning

Council)

Case 29-CB-293575



Enclosed is a copy of a charge that has been filed in this case. Although this charge is not filed against you, it is necessary for us to obtain information from you to determine whether we have jurisdiction over this case. In the future we may also need to obtain evidence from you concerning the merits of the charge. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Attorney BRENT E. CHILDERHOSE whose telephone number is (718)765-6187. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701*, *Notice of Appearance*. This form is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a>, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

If, during the investigation of this matter, the Board agent asks for evidence, I strongly urge you or your representative to promptly present all evidence relevant to the investigation. In this way, the case may be fully investigated more quickly.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

<u>Preservation of all Potential Evidence:</u> Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

<u>Prohibition on Recording Affidavit Interviews:</u> It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

KATHY DREW-KING Regional Director

#### Enclosures

- 1. Copy of Charge
- 2. Commerce Questionnaire

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify them number.  CASE NAME    CASE NAME	FORM NLRB-5081				
Please read carchily, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.  CASE NAME    CASE NAME		NATIONAL LABOR RELA	TIONS BOARD		
Please read carefully, answer all applicable items, and return to the NLR8 Office. If additional space is required, please add a page and identify item number.  CASE NAME  29-CB-293575  1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)  2. TYPE OF ENTITY  [] CORPORATION   LLC		NNAIRE ON COMME	RCE INFORMATION		
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SIGNATURE

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations
Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71
Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause
the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

E-MAIL ADDRESS

DATE

### NATIONAL LABOR RELATIONS BOARD NOTICE OF APPEARANCE

1199SEIU UNITED HEALTHCARE WORKERS EAST,	
Union,	
and	CASE 29-CB-293575
CHINESE-AMERICAN PLANNING COUNCIL HOME ATTENDANT,	
Employer.	
REGIONAL DIRECTOR  EXECUTIVE SECRETARY NATIONAL LABOR RELATIONS BOARD Washington, DC 20570	GENERAL COUNSEL NATIONAL LABOR RELATIONS BOARD Washington, DC 20570
THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATE	IVE OF
1199SEIU United Healthcare Workers East IN THE ABOVE-CAPTIONED MATTER.	
CHECK THE APPROPRIATE BOX(ES) BELOW:  ☑ REPRESENTATIVE IS AN ATTORNEY	
☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE TO CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WE DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENT CASEHANDLING MANUAL.	ADDITION TO THOSE DESCRIBED BELOW, THIS VILL RECEIVE ONLY COPIES OF CERTAIN
(REPRESENTATIVE INFORMA	TION)
NAME: Laureve Blackstone	
MAILING ADDRESS: Levy Ratner, P.C., 80 Eighth Avenue, 8th Floor, N	ew York, NY 10011-7175
E-MAIL ADDRESS: lblackstone@levyratner.com	
OFFICE TELEPHONE NUMBER:(212) 627-8100	
CELL PHONE NUMBER:FAX:	: (212) 627-8182
SIGNATURE: James D. Bachstone (Please sign in ink.)	
DATE: April 20, 2022	

 $<sup>^{\</sup>rm 1}$  IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABO
REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov Telephone: (718)330-7713 Fax: (718)330-7579

June 9, 2022



Re: 1199SEIU United Healthcare Workers East

(Chinese-American Planning Council)

Case 29-CB-293575



We have carefully investigated and considered your charge that 1199SEIU United Healthcare Workers East has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Union has failed and refused to represent you and other union members by not challenging the February 25, 2022 arbitrator's award for the Union's class-action grievance. Further, you allege the Union's handling of the class action grievance "had the effect of colluding with 42 homecare agencies/employers in the State of New York to evade monetary and criminal liabilities by these employers..." Contrary to what is alleged in your charge, there is insufficient evidence to establish that the Union has failed in its duty to represent you or other employees named in the charge.

Is well established that a Union, as the exclusive representative of bargaining unit employees, has the statutory duty to fairly represent their interests in the processing of grievances. See *Vaca v. Sipes*, 386 U.S. 171 (1967). A breach of this duty occurs when the Union's conduct is based upon arbitrary, invidious, or discriminatory considerations. At the same time, however, unions have broad discretionary power to settle or drop grievances for a multitude of reasons and the duty of fair representation "does not require that every possible option be exercised or that a grievant's case be advocated in a perfect manner." *Truck Drivers, Local Union No. 355*, 229 NLRB 1319, 1321(1977).

Here, the evidence shows that the Union processed a class-action grievance on behalf of approximately 120,000 home healthcare workers which resulted in an arbitrator issuing a decision on February 25, 2022. The arbitrator's decision establishes a fund of approximately \$32 million to pay the wage claims of the employees represented by the Union. Further, the arbitrator's decision establishes a formula to distribute the funds to employees who submit claims. While you have objected to the arbitrator's decision, claiming that it is arbitrary and discriminatory, the Union's assessment is that the decision is fair and reasonable and balances

1199SEIU United Healthcare Workers East - 2 - (Chinese-American Planning Council)
Case 29-CB-293575

the various factors related to such a large class action. Contrary to what you have claimed, the arbitrator's award does not arbitrarily distribute funds equally to all employees in the class, but rather compensates employees consistent with a formula that accounts for which employees had worked 24-hour shifts. While you disagree with the Union's assessment that the arbitrator's award is appropriate, there is insufficient evidence that the Union's actions are based on any unlawful considerations. Your disagreement with how the Union has chosen to represent the class of employees does not equate to the Union violating its statutory obligation to provide fair representation to the employees it represents. Accordingly, since there is insufficient evidence to establish that the Union violated the Act as alleged or in any other manner encompassed by your charge, I am dismissing this charge.

**Charging Party's Right to Appeal:** The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible. Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at <a href="www.nlrb.gov">www.nlrb.gov</a>. See <a href="www.nlrb.gov">User Guide</a>. A video demonstration which provides <a href="step-by-step instructions">step-by-step instructions</a> and frequently asked questions are also available at <a href="www.nlrb.gov">www.nlrb.gov</a>. If you require additional assistance with E-Filing, please contact <a href="mailto:e-Filing@nlrb.gov">e-Filing@nlrb.gov</a>.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on June 23, 2022. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than June 22, 2022. If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely. If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before June 23, 2022.** The request may be filed electronically through the *E-File Documents* link on our website <a href="www.nlrb.gov">www.nlrb.gov</a>, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any

a copy of the extension of time should also be sent to me.

request for an extension of time to file an appeal received after June 23, 2022, even if it is

postmarked or given to the delivery service before the due date. Unless filed electronically,

**Confidentiality:** We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,

Kathy Drew King Regional Director

Kayny Dem Rigg

#### Enclosure

cc: (b) (6), (b) (7)(C)

Flushing Workers Center PO Box 528119 Flushing, NY 11355

George Gresham 1199SEIU United Healthcare Workers East 498 Seventh Avenue New York, NY 10018

Laureve Blackstone, Esq. Levy Ratner, P.C. 80 Eighth Avenue 8th Floor New York, NY 10011-7175

Kenneth Kirschner, Esq. Hogan Lovells LLP 390 Madison Avenue New York, NY 10017 (b) (6), (b) (7)(C)

Chinese-American Planning Council 1 York Street New York, NY 10013

### UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD

### APPEAL FORM

Date:

To: General Counsel

Attn: Office of Appeals National Labor Relations Board 1015 Half Street SE Washington, DC 20570-0001	
Please be advised that an appeal is here National Labor Relations Board from the action issue a complaint on the charge in	
Case Name(s).	
Case No(s). (If more than one case number, inclutaken.)	ude all case numbers in which appeal is
	(Signature)

#### **E-FILING TO APPEALS**

- 1. **Extension of Time**: This document is used when the Charging Party is asking for more time to efile an Appeal.
  - If an Extension of Time is e-filed, and there are additional documents to be e-filed simultaneously with it, please e-file those documents under the selection **Correspondence**.
  - After an Extension of Time has already been e-filed, any **additional** materials to add to the Extension of Time should be e-filed under **Correspondence**.
- 2. **File an Appeal**: If the Charging Party does not agree with the Region's decision on the case, an Appeal can be e-filed.
  - Only one (1) Appeal can be e-filed to each determination in the Region's decision letter that is received.
  - After an Appeal has been e-filed, any additional materials to add to the Appeal should be e-filed under Correspondence.
- 3. **Notice of Appearance**: Either party can e-file a Notice of Appearance if there is a new counsel representing one side or a different counsel.
  - This document is only e-filed with the Office of Appeals after a decision has been made by the Region.
  - This document can be e-filed **before** an Appeal is e-filed.
- 4. **Correspondence**: Parties will **select** Correspondence when adding documents or supplementing the Appeal or Extension of Time.
  - Correspondence is used to e-file documents after an Extension of Time, Appeal or Notice of Appearance has been e-filed.
- 5. **Position Statement**: The Charging Party or Charged Party may e-file a Position Statement.
  - The Charging Party will e-file this document as a supplement of the Appeal.
  - The Charged Party will specifically file one to support the Region's decision.
  - This document should be e-filed after an Extension of Time, Appeal or Notice of Appearance has been e-filed.
- 6. **Withdrawal Request**: If the Charging Party decides to no longer pursue their appeal, he/she can e-file a Withdrawal Request to the Office of Appeals.
  - This document should be e-Filed **after** an **Extension of Time, Appeal** or **Notice of Appearance** has been e-filed.



7. The selections of **Evidence** or **Other** should no longer be used.

#### OFFICE OF THE GENERAL COUNSEL

Washington, DC 20570

June 24, 2022

(b) (6), (b) (7)(C)
FLUSHING WORKERS CENTER
PO BOX 528119
FLUSHING, NY 11355

Re: 1199SEIU United Healthcare Workers East (Chinese-American Planning Council) Case 29-CB-293575

Dear (b) (6), (b) (7)(C):

We have received your request for an extension of time to file an appeal. We are granting you an extension only to **July 15, 2022.** 

File your Appeal Electronically by July 15, 2022. You must file your appeal electronically via the Agency's website <a href="www.nlrb.gov">www.nlrb.gov</a> and are encouraged to submit a complete statement of the facts and reasons why you believe the Region's decision was incorrect. Remember to allow enough time to complete the electronic filing process by 11:59 pm Eastern Time on July 15, 2022. Otherwise, your appeal will be late. Instructions on how to file electronically through our e-filing system is on the website.

If Unable to File Electronically, send via Mail by July 14, 2022. If you are unable to file electronically, you must include a written explanation as to why filing electronically was not possible or feasible along with your appeal. These items must be sent through the U.S. mail or by a delivery service no later than July 14, 2022, and addressed to the General Counsel, NLRB, Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the appeal should also be sent to the Regional Director. Please note that the date to send your appeal by mail or delivery service is at least one day prior to the appeal due date. This ensures your appeal is timely no matter what date it is received in this office.

Finally, please be advised that we do not accept appeals through fax or e-mail.

Sincerely,

Jennifer A. Abruzzo General Counsel

By:

Mark E. Arbesfeld, Director Office of Appeals

cc: KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
TWO METRO TECH CENTER
STE 5100
BROOKLYN, NY 11201-3838

LAUREVE BLACKSTONE, ESQ. LEVY RATNER, P.C. 80 EIGHTH AVE 8<sup>TH</sup> FL NEW YORK, NY 10011-7175 KENNETH KIRSCHNER, ESQ. HOGAN LOVELLS LLP 390 MADISON AVE NEW YORK, NY 10017

Mark E. Alberteld

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#### OFFICE OF THE GENERAL COUNSEL

Washington, DC 20570

July 15, 2022

(b) (6), (b) (7)(C) Flushing Workers Center PO Box 528119 Flushing, NY 11355

> Re: 1199SEIU United Healthcare Workers East (Chinese-American Planning Council) Case 29-CB-293575

Dear (b) (6), (b) (7)(C):

We have received your request for an extension of time to file an appeal. We are granting you an extension to August 3, 2022. No further extensions will be granted.

File your Appeal Electronically by August 3, 2022. You must file your appeal electronically via the Agency's website <a href="www.nlrb.gov">www.nlrb.gov</a> and are encouraged to submit a complete statement of the facts and reasons why you believe the Region's decision was incorrect. Remember to allow enough time to complete the electronic filing process by 11:59 pm Eastern Time on August 3, 2022. Otherwise, your appeal will be late. Instructions on how to file electronically through our e-filing system is on the website.

If Unable to File Electronically, send via Mail by August 2, 2022. If you are unable to file electronically, you must include a written explanation as to why filing electronically was not possible or feasible along with your appeal. These items must be sent through the U.S. mail or by a delivery service no later than August 2, 2022, and addressed to the General Counsel, NLRB, Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the appeal should also be sent to the Regional Director. Please note that the date to send your appeal by mail or delivery service is at least one day prior to the appeal due date. This ensures your appeal is timely no matter what date it is received in this office.

Finally, please be advised that we do not accept appeals through fax or e-mail.

Sincerely,

Jennifer A. Abruzzo General Counsel

BY:

Mark E. Arbesfeld, Director Office of Appeals

Cc: KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
TWO METRO TECH CENTER
STE 5100
BROOKLYN, NY 11201-3838

LAUREVE BLACKSTONE, ESQ. LEVY RATNER, P.C. 80 EIGHTH AVE 8TH FL NEW YORK, NY 10011-7175 KENNETH KIRSCHNER, ESQ. HOGAN LOVELLS LLP 390 MADISON AVE NEW YORK, NY 10017

Mark E. Alberteld

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OFFICE OF THE GENERAL COUNSEL

Washington, DC 20570

August 4, 2022

FLUSHING WORKERS CENTER PO BOX 528119 FLUSHING, NY 11355

> Re: 1199SEIU United Healthcare Workers East

> > (Chinese-American Planning Council)

Case 29-CB-293575

Dear (b) (6), (b) (7)(C)

We have received your timely appeal from the Region's decision in the above-captioned case. We will assign your appeal for processing in accordance with Agency procedures. Please be assured that our review of this matter will include a full analysis of the underlying investigatory file, your appeal, as well as current Board law and processes.

We will notify you and all involved parties of our decision by letter via email as permitted under Section 102.4(c) of the Board's Rules and Regulations. If an email address is not available for you, we will provide the decision by mail.

Sincerely,

Jennifer A. Abruzzo General Counsel

By:

Mark E. Arbesfeld, Director

Mark E. Abesteld

Office of Appeals

ce: KATHY DREW-KING, REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
TWO METRO TECH CENTER
STE 5100
BROOKLYN, NY 11201-3838

GEORGE GRESHAM 1199SEIU UNITED HEALTHCARE WORKERS EAST 498 SEVENTH AVE NEW YORK, NY 10018

LAUREVE BLACKSTONE, ESQ. LEVY RATNER, P.C. 80 EIGHTH AVE 8TH FL NEW YORK, NY 10011-7175

#### (b) (6), (b) (7)(C)

CHINESE-AMERICAN PLANNING COUNCIL 1 YORK ST NEW YORK, NY 10013

KENNETH KIRSCHNER, ESQ. HOGAN LOVELLS LLP 390 MADISON AVE NEW YORK, NY 10017

(b) (6), (b) (7)(C)

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